EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1131-PST-E **TCEQ ID:** RN101741296 **CASE NO.:** 34184

RESPONDENT NAME: Frank De Los Santos

ORDER TYPE:							
X_1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING					
FINDINGS DEFAULT ORDER	S DEFAULT ORDERSHUTDOWN ORDERIMMINENT AND SUBSTAN ENDANGERMENT ORDER						
AMENDED ORDER	EMERGENCY ORDER						
CASE TYPE:							
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE					
PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	_OCCUPATIONAL CERTIFICATION					
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL					
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION					
TYPE OF OPERATION: Property with an SMALL BUSINESS: Yes x OTHER SIGNIFICANT MATTERS: Ther facility location. INTERESTED PARTIES: No one other that COMMENTS RECEIVED: The Texas Reg CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator TCEQ Enforcement Coordinator Mr. Bryan Sinclair, Enforcement D Respondent: Mr. Frank De Los Sa	No e are no complaints. There is no record of additional and the ED and the Respondent has expressed an intersister comment period expired on May 12, 2008. No r: None : Mr. Thomas Greimel, Enforcement Division, Enfo	rest in this matter. comments were received. recement Team 6, MC 128, (512) 239-5690; rexas 77954					
		HEF CLE					
		ON ENVIRONMENT OF A PRICE CLERKS					

DOCKET NO.: 2007-1131-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: Complaint	Total Assessed: \$5,250	Ordering Provisions:
Routine	Total Deferred: \$1,050	The Order will require the Respondent to:
X Enforcement Follow-up	X Expedited Settlement	
X Records Review Date(s) of Complaints Relating to this	Financial Inability to Pay	a. Within 30 days after the effective date of this Agreed Order, permanently remove the UST system from service;
Case: None	SEP Conditional Offset: \$0	the Ob't system nom service,
		b. Within 45 days after the effective date
Date of Investigation Relating to this Case: September 27, 2006 and June 7, 2007	Total Paid (Due) to General Revenue: \$100 (remaining \$4,100 due in 11 monthly payments of \$100 and 24 monthly payments of \$125)	of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records
Date of NOV/NOE Relating to this Case: November 6, 2006 (NOV) and June 28, 2007 (NOE)	The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined	to demonstrate compliance with Ordering Provision a.
Background Facts: This record review	that the Respondent is able to pay the full	
was a follow-up to a previous investigation	payable penalty in accordance with the	
conducted on September 27, 2006, to verify compliance with applicable rules for	installment schedule detailed above.	 All Mark Marketon, 1940, Mark Mark Marketon, 1940, Marketon, 1940
out-of-service underground storage tanks ("USTs").	Site Compliance History Classification High X Average Poor	Description of the second second
WASTE	Person Compliance History Classification High X Average Poor	
Failed to permanently remove from	terperatural and an extension of the contract	The second of the second campa.
service, no later than 60 days after the	Major Source: YesX_ No	
prescribed upgrade implementation date,	li se a tribati danah bir bedagian dan sere	
one UST for which any applicable component of the system was not brought	Applicable Penalty Policy: September 2002	
into timely compliance with the upgrade		
requirements [30 Tex. ADMIN. CODE §	n de Maria. Notae de la Composição de	
334.47(a)(2)].		Bornellin (1997) Anna State
	and the second of the second o	
	<u> </u>	la constanta de la constanta d

Additional ID No(s).: 6706

		Pe	nalty	Calculatio	n Works	sheet (P	CW)	
P	olicy Revision 2 (Sep	tember 2002)		<u> </u>			PCW Revision	n June 26, 2007
TCEQ	A !	0 1.1 2007						Sachter
DATES	Assigned PCW		Screenin	13-Jul-2007	EPA Due			MINING THE PROPERTY WAS TRANSPORTED TO THE PROPERTY OF THE PRO
RESPON	DENT/FACILITY	INFORMATION	1		**************************************			
	Respondent	Frank De Los S	antos					,
Re	eg. Ent. Ref. No.	RN101741296					The	_
Faci	ility/Site Region	14-Corpus Chr	sti		Major/I	Minor Source	Minor	
CASE IN	FORMATION				1 18070			
	nf./Case ID No.	34184	· · · · · · · · · · · · · · · · · · ·		No.	of Violations	1	7
		2007-1131-PS]	Order Type		
Me	edia Program(s)		age Tank		Enf	. Coordinator	Thomas Greimel	
	Multi-Media		\$0	Maximum ⁻	\$10,000	EC's Team	EnforcementTeam 6	
AC	dmin. Penalty \$	Limit Wilhimussi	φυ	IWIAXIIIIUIII	[\$10,000]	Works was a second of the seco	-	
			Pan	alty Calcula	ation Sec	tion		
		Allegand Santark Colorest Auto-						
TOTAL	BASE PENAI	_TY (Sum of	violation	base penalti	es)		Subtotal 1	\$5,000
AD IIIO	TMENTS (±/ \	TO SUBTOT	Ã1 4			www.carterana		Las Control
ADJUƏ S	TMENTS (+/-)	ned by multiplying th	e Total Base	Penalty (Subtotal 1) b	y the indicated per	centage.		
	ompliance Hist	All the first than the second of the contract		5%			otals 2, 3, & 7	\$250
	Notes	Enhance	ment for o	ne NOV with sam	ne or similar vic	olations.		
							_	
C	ulpability	No		0%	E nhancement		Subtotal 4	\$0
		T						
	Notes	I ne re	espondent	does not meet th	е сиравшу сп	teria.		
	er verst. Annan i den min mittelsteren	A SECURE AND ADDRESS OF A	and the second of the second	er en er				
G	ood Faith Effor	A Transfer of the Control of the Con	NOVA- EDI	0% PRP/Settlement Offer	Parin August De Pariner (1982)		Subtotal 5	\$0
	Extraordinary	Before NOV	NOV 10 EDF					
	Ordinary							
	N/A	X	(mark with x)				_	
i gatijakalea S. San tangali	Notos	The re	senondent	does not meet th	e good faith cri	teria		
	Notes	The I	35pondone	docs not meet at	c good later on	tona.		
		a ditirii uureetaasi A		0.0/			Subtotal 6	\$0
		Total EB Amounts	\$4,596		■ Enhancement* d at the Total EB \$	S Amount	Subiolar o	- 40
	Approx.	Cost of Compliance						Y
						torage present or only the more to		CE DEO
SUM OI	FSUBIOTAL	S 1-/				BOATS ERF	-inal Subtotal	\$5,250
ATUED	FACTORS A	e illetice N	IAV DEO	IIIDE			Adjustment	\$0
				e. (Enter number on	ly; e.g30 for -30%	%.)	Aujustinent	Ψ0
			<u>-</u>	, , , , , , , , , , , , , , , , , , , 			1	
	Notes							
						Final Pe	nalty Amount	\$5,250
OTATIL	TODY LIMIT	DUCTMEN	₩ 1,51 kara					\$5,250
SIAIU	TORY LIMIT A	ADJUS I MEN				rinai Asse	essed Penalty	ψυ,∠ υ
DEFER	DAI				20%	Reduction	Adjustment	-\$1,050
		nalty by the indicted i	ercentage. (Enter number only; e.			Aujusunent	Ψ1,000
		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,			.=]	
	Notes		Deferral of	fered for expedite	ed settlement.			
]	
		,			<i>i</i>			
PAYAB	LE PENALTY							\$4,200

Screening Date 13-Jul-2007

Docket No. 2007-1131-PST-E

PCW

Respondent Frank De Los Santos

Case ID No. 34184

Policy Revision 2 (September 2002) PCW Revision June 26, 2007

Adjust.

5%

0%

0%

Enter Number Here

0

0

Reg. Ent. Reference No. RN101741296

Component Number of...

NOVs

Orders

Media [Statute] Petroleum Storage Tank

(number of NOVs meeting criteria)

Enf. Coordinator Thomas Greimel

Other written NOVs

meeting criteria)

Compliance History Worksheet >> Compliance History Site Enhancement (Subtotal 2)

Written NOVs with same or similar violations as those in the current enforcement action

Any agreed final enforcement orders containing a denial of liability (number of orders

Any adjudicated final enforcement orders, agreed final enforcement orders without a denial

	of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%	
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%	
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	Q	0%	
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%	
Emissions	Chronic excessive emissions events (number of events)	0	0%	
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%	
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%	
Lagino de la companyo	Plea	se Enter Yes or No		
	Environmental management systems in place for one year or more	No	0%	
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%	
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Participation in a voluntary pollution reduction program	No	0%	
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%	
	Adjustment P	ercentage (Sเ	ıbtotal 2) [5%
epeat Violator (Su		ercentage (Si	ubtotal 2) [0%
reconstruction of the control of the	Aujustinent P	ercemaye (St	IDIOIAI 3) L	0.70
		entication representation of the second	1810 A carrier after the Parish Course	circumside Associated tracket
ompliance History	Person Classification (Subtotal 7)	ne i i	77 C. 11 3 3 4 1	
ompliance History Average P		ercentage (Su	ıbtotal 7) [0%
	erformer Adjustment Po	ercentage (Su	ıbtotal 7) [0%
Average P	erformer Adjustment Po	ercentage (Su	ıbtotal 7) [0%
Average Pompliance History Compliance History	erformer Adjustment Po		•	0% 5%
Average Pompliance History Compliance History	Adjustment Por Summary Enhancement for one NOV with same or similar violations.		•	The Control of

Screening Date	13-Jul-2007	Docket	No. 2007-1131-PST-E	PCW
Respondent	Frank De Los Santos		F	Policy Revision 2 (September 2002)
Case ID No.				PCW Revision June 26, 2007
Reg. Ent. Reference No.				
at the second of	Petroleum Storage Tank			
Enf. Coordinator				
Violation Number				
Rule Cite(s	30	0 Tex. Admin. Code §	§ 334.47(a)(2)	
Violation Description	upgrade implementation	date, one UST for wh	later than 60 days after the presci nich any applicable component of nce with the upgrade requirements	the
			Base Pe	nalty \$10,000
>> Environmental, Property	and Human Health Mat	rix		
	Harm			
Release OR Actua		Minor		
Potentia			Percent 25%	
>>Programmatic Matrix				
Falsification	Major Moderate	Minor		
			Percent 0%	
			ents which would exceed levels that ors as a result of the violation.	t are
			Adjustment \$	7,500
				\$2,500
Violation Events				
Number of Vi	olation Events 2	36	Number of violation days	
***************************************		l I		',
	daily monthly x			
mark only one	quarterly		Violation Base Pe	nalty \$5,000
with an x	semiannual		•	
-	annual			
6-000000 0010000	single event			
Two monthly	events are recommended fro	om the June 7, 2007 screening date.	record review date to the July 13,	2007
Economic Benefit (EB) for th	is violation		Statutory Limit Test	
ACCESSES OF THE PRINCE OF THE PROPERTY OF THE	d EB Amount	\$4,596	Violation Final Penalty	Total \$5,250
⊨stimate	u ED AMOUNT	Ψ4,390 _]	VIOIALION FINAL FENALTY	10tal 95,230
	TI	his violation Final A	ssessed Penalty (adjusted for li	mits) \$5,250

	Frank De Los	Santos	V. J. J. J. V. Prinching, minch half-last contribution of the contribution of the	COMPANS DOWN TOTAL	entitioning executions and any analysis and any any	may an interest the real properties the form	200 Y CO COMPANY OF THE VANDORS AND ASSESSMENT OF THE PROPERTY
Case ID No.					* 1		
Reg. Ent. Reference No.	RN101741296				and the later of the second		1 44
Media	Petroleum Stor	age Tank				F	Years of
Violation No.	1					Percent Interest	Depreciation
					Salaya de la la salaya. Salaya da Salaya da salaya	5.0	1
The problem of the control of the co	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
:					TOTAL TOTAL CONTRACTOR AND ADDRESS OF THE PARTY OF THE PA		
Delayed Costs							11.35
Equipment	Manager of the Control of the Contro			0,0	\$0	\$0	\$0
Buildings		Karanga Jawa Jawa		0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	- 1			0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0.
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling Remediation/Disposal	33.57			0.0	\$0	n/a	\$0
Remediation/Disposal Permit Costs	E-I			0.0	\$0 \$0	i n/a	\$0
Other (as needed)	\$10,000	22-Dec-1998	28-Feb-2008	9.2	\$0 \$4,596	n/a n/a	\$0 \$4,596
- 11101 (40 1100404)	Ψισίσος	JL 22 DCG 1000 J	20-1-CD-2000	0.2	Ψ-1000		
	Estimated	cost to permanently	remove the UST	system	from service Dat	e Required is the da	
Notes for DELAYED costs Avoided Costs	respond	ent was required to	upgrade the UST	system.	Final Date is the	e Required is the da expected date of co	te when the mpliance.
Notes for DELAYED costs Avoided Costs Disposal	respond	ent was required to	upgrade the UST	system.	Final Date is the	expected date of cor one-time avoided c	te when the mpliance.
Avoided Costs Disposal Personnel	respond	ent was required to	upgrade the UST	system.	Final Date is the	expected date of cor	te when the mpliance.
Avoided Costs	respond	ent was required to	upgrade the UST	system. ntering 0.0	Final Date is the Item (except for \$0	expected date of cor one-time avoided c	te when the mpliance. osts) \$0
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Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	respond	ent was required to	upgrade the UST	ntering 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	Final Date is the item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	expected date of colone-time avoided colone-time avoided colone-time solone sol	te when the mpliance. osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	respond	ent was required to	upgrade the UST	ntering 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	Final Date is the item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	expected date of colone-time avoided colone-time avoided colone-time solone sol	te when the mpliance. osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
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Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	respond	ent was required to	upgrade the UST	ntering 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	Final Date is the item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	expected date of colone-time avoided colone-time avoided colone-time solone sol	te when the mpliance. osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
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Compliance History

Custome	er/Responde	ent/Owner-Opera	ator:	CN600937049	De Lo	s Santos, Fra	ank		Clas	ssification:	AVERAGE	Rat	ing: 3.01	1
Regulate	ed Entity:			RN101741296	De Lo	s Santos, Fra	ank			ssification:	AVERAGE E	BY Site	Rating:	3.01
ID Numb	er(s):			PETROLEUM ST		TANK		REGIS	TRATION			6706		
Location	:			2400 N ESPLAN	ADE ST,	CUERO, TX,	77954		Rati	ng Date: 9	/1/2006 Rep	eat Viola	itor: NO	
TCEQ R	legion:			REGION 14 - CC	RPUS C	HRISTI				t .				
Date Co	mpliance Hi	istory Prepared:		July 13, 2007										
Agency	Decision Re	equiring Complia	nce History:	Enforcement										
Complia	nce Period:			July 13, 2002 to	July 13, 20	007								
TCEQ S	taff Membe	r to Contact for	Additional Infor	mation Regarding	this Comp	oliance Histor	y							
Name:	TI	nomas Greimel		Pł	none:	(512) 239	-5690							
				Site C	omplian	ce History	Compor	nents						
1. Has th	ne site been	in existence an	d/or operation	for the full five yea	r complia	nce period?		Yes						
2. Has th	nere been a	(known) change	in ownership	of the site during t	he compli	ance period?		No			1			
3. If Yes	, who is the	current owner?			•			N/A						
4. if Yes	s, who was/	were the prior ov	vner(s)?					N/A				-		
5 When	n did the ch	ange(s) in owne	shin occur?					N/A						
		ultimedia) for												
				s, and consent de	crees of th	he state of Te	exas and t	he federa	al governm	ent.	,			
	N/A	,		,					<u> </u>					
	IN/A													
В. А		convictions of th	e state of Tex	as and the federal	governme	ent.								
	N/A													· 1:
C. C		essive emissions	events.											a v
	N/A												a e	er wir
D. T	• •			DS Inv. Track. No	.)									
	1	11/06/2006	(517858)											
	2	07/02/2007	(563500)											
E. V	Vritten notic	es of violations	(NOV). (CCED	S Inv. Track. No.)										
	D	ate: 11/06/2006	(51785	8)										
	Ci	elf Report? Notation:	30 TAC Cha 30 Tex. Adm service, no I existing UST	pter 334, SubChapin. Code Section 3 ater than 60 days a system for which ompliance with the	334.47(a)(after the p any appli	(2) - Failure to prescribed up cable compo	grade impl	ently remi lementat	ion date, a					
F. E	invironment N/A	al audits.												
G. 7	ype of envi	ironmental mana	gement syster	ns (EMSs).										
	N/A													
H. V	oluntary on	-site compliance	assessment o	lates.										
	N/A													
I. Pa		in a voluntary po	llution reduction	n program.										
	N/A	7 44		"										
J. E	N/A arly complia	ance.												
J. L	-					•								
Sites O	N/A Itside of Te	kas												
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N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



ENFORCEMENT ACTION §	
Entrolle Enterior	
CONCERNING § TEXAS COMMISSION ON	
FRANK DE LOS SANTOS §	
RN101741296 § ENVIRONMENTAL QUALI	IT

AGREED ORDER DOCKET NO. 2007-1131-PST-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Frank De Los Santos ("Mr. De Los Santos") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. De Los Santos appear before the Commission and together stipulate that:

- 1. Mr. De Los Santos owns a property with an underground storage tank ("UST") at 2400 North Esplanade Street in Cuero, Dewitt County, Texas (the "Facility").
- 2. Mr. De Los Santos' one UST is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
- 3. The Commission and Mr. De Los Santos agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. De Los Santos is subject to the Commission's jurisdiction.
- 4. Mr. De Los Santos received notice of the violations alleged in Section II ("Allegations") on or about July 3, 2007.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. De Los Santos of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Five Thousand Two Hundred Fifty Dollars (\$5,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division

ON ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

reviewed financial documentation submitted by Mr. De Los Santos and determined that Mr. De Los Santos is able to pay the administrative penalty in monthly payments. Therefore, One Thousand Fifty Dollars (\$1,050) is deferred contingent upon Mr. De Los Santos' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. De Los Santos fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. De Los Santos to pay all or part of the deferred penalty.

Mr. De Los Santos has paid One Hundred Dollars (\$100) of the undeferred administrative penalty. The remaining amount of Four Thousand One Hundred Dollars (\$4,100) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Dollars (\$100) each for the first 11 months and One Hundred Twenty-Five Dollars (\$125) each for the remaining 24 months. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If Mr. De Los Santos fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. De Los Santos to meet the payment schedule of this Agreed Order constitutes the failure by Mr. De Los Santos to timely and satisfactorily comply with all the terms of this Agreed Order.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Mr. De Los Santos have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. De Los Santos has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Facility, Mr. De Los Santos is alleged to have failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, one UST for which any applicable component of the system was not brought into timely compliance with the upgrade requirements, in violation of 30 Tex. ADMIN. Code § 334.47(a)(2), as documented during a record review conducted on June 7, 2007.

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III. DENIALS

Mr. De Los Santos generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. De Los Santos pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. De Los Santos' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Frank De Los Santos, Docket No. 2007-1131-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that Mr. De Los Santos shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, permanently remove the UST system from service, in accordance with 30 Tex. ADMIN. CODE § 334.55; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

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Frank De Los Santos DOCKET NO. 2007-1131-PST-E Page 4

with a copy to:

Mr. Brad Genzer, Waste Section Manager Corpus Christi Regional Office Texas Commission on Environmental Quality 6300 Ocean Drive, Unit 5839 Corpus Christi, Texas 78412-5839

- 3. The provisions of this Agreed Order shall apply to and be binding upon Mr. De Los Santos.
- 4. If Mr. De Los Santos fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. De Los Santos' failure to comply is not a violation of this Agreed Order. Mr. De Los Santos shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. De Los Santos shall notify the Executive Director within seven days after Mr. De Los Santos becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. De Los Santos shall be made in writing to the Executive Director. Extensions are not effective until Mr. De Los Santos receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. De Los Santos in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. De Los Santos, or three days after the date on which the Commission mails notice of the Order to Mr. De Los Santos, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
000 5000.	5/2/2008
For the Executive Director	Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEO seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Frank Woles Scouters Signature

Date

Name (Printed or typed)

Name (Printed or typed)
Authorized Representative of

Frank De Los Santos

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Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

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